
SENATE BILL No. 279

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-71; IC 13-15-3-2; IC 13-19-4; IC 13-30-2-1.

Synopsis: Environmental permit applications. Eliminates: (1) the good character requirements for applications for permits for solid waste and hazardous waste facilities; and (2) the local or regional need demonstration requirement for applications for permits for solid waste facilities.

Effective: July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Energy and Environmental Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 279

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-71 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 71. "Environmental
- 3 management laws" refers to the following:
- 4 (1) IC 13-12-2 and IC 13-12-3.
- 5 (2) IC 13-13.
- 6 (3) IC 13-14.
- 7 (4) IC 13-15.
- 8 (5) IC 13-16.
- 9 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- 10 (7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.
- 11 (8) IC 13-19-1 and IC 13-19-4.
- 12 (9) ~~IC 13-20-1~~, IC 13-20-2, IC 13-20-4 through IC 13-20-15, and
- 13 IC 13-20-19 through IC 13-20-21.
- 14 (10) IC 13-22.
- 15 (11) IC 13-23.
- 16 (12) IC 13-24.
- 17 (13) IC 13-25-1 through IC 13-25-5.

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(14) IC 13-30, except IC 13-30-1.

SECTION 2. IC 13-15-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A permit issued under:

(1) this article (except IC 13-15-9);

(2) IC 13-17-11; **or**

(3) IC 13-18-18; **or**

~~(4) IC 13-20-1;~~

may be issued for any period determined by the department to be appropriate but not to exceed five (5) years.

(b) Except as provided in federal law, a valid permit that has been issued under this chapter that concerns an activity of a continuing nature may be renewed for a period of not more than ten (10) years as determined by the department. The board shall adopt rules implementing this subsection.

(c) The commissioner may delegate authority to issue or deny permits to a designated staff member.

SECTION 3. IC 13-19-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Before an application for the issuance, renewal, transfer, or major modification of a permit described in IC 13-15-1-3 **to control atomic radiation** may be granted, the applicant and each person who is a responsible party with respect to the applicant must submit to the department:

(1) a disclosure statement that:

(A) meets the requirements set forth in section 3(a) of this chapter; and

(B) is executed under section 3(b) of this chapter; or

(2) all of the following information:

(A) The information concerning legal proceedings that:

(i) is required under Section 13 or 15(d) of the federal Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); and

(ii) the applicant or responsible party has reported under form 10-K.

(B) A description of all judgments that:

(i) have been entered against the applicant or responsible party in a proceeding described in section 3(a)(3) of this chapter; and

(ii) have imposed upon the applicant or responsible party a fine or penalty described in section 3(a)(3)(A) of this chapter.

(C) A description of all judgments of conviction entered

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1 against the applicant or responsible party within five (5) years
 2 before the date of submission of the application for the
 3 violation of any state or federal environmental protection law.

4 SECTION 4. IC 13-19-4-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subject to
 6 subsection (b), the commissioner may deny an application for the
 7 issuance, renewal, transfer, or major modification of a permit described
 8 in IC 13-15-1-3 **to control atomic radiation** if the commissioner finds
 9 that:

10 (1) the applicant or a responsible party has intentionally
 11 misrepresented or concealed any material fact in a statement
 12 required by section 2 or 3 of this chapter;

13 (2) a civil or administrative complaint described in section 3(a)(3)
 14 of this chapter has been filed against the applicant or a
 15 responsible party within five (5) years before the date of
 16 submission of the application;

17 (3) a criminal complaint described in section 3(a)(4) of this
 18 chapter has been filed against the applicant or a responsible party
 19 within five (5) years before the date of submission of the
 20 application;

21 (4) a judgment of criminal conviction described in section 3(a)(5)
 22 or 3(a)(6) of this chapter has been entered against the applicant or
 23 a responsible party within five (5) years before the date of
 24 submission of the application; or

25 (5) the applicant or a responsible party has knowingly and
 26 repeatedly violated any state or federal environmental protection
 27 laws.

28 (b) The commissioner may not deny a permit under this section
 29 based solely upon pending complaints disclosed under section
 30 3(a)(3)(B) or 3(a)(4) of this chapter.

31 SECTION 5. IC 13-19-4-7 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) In taking action
 33 under this chapter on an application for the issuance, renewal, transfer,
 34 or major modification of a permit described in IC 13-15-1-3 **to control**
 35 **atomic radiation**, the commissioner shall make separately stated
 36 findings of fact to support the action taken.

37 (b) The findings of ultimate fact must be accompanied by a concise
 38 statement of the underlying basic facts of record to support the
 39 findings. However, when the commissioner denies an application, the
 40 commissioner is not required to explain the extent to which any of the
 41 mitigating factors set forth in section 6 of this chapter influenced the
 42 commissioner's determination to deny the application.

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SECTION 6. IC 13-19-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does not apply to the transfer of ownership of a facility from a permittee whose business derives less than fifty percent (50%) of its gross revenue from the management of solid waste to a prospective owner whose business derives less than fifty percent (50%) of its gross revenue from the management of solid waste.

(b) If there is a prospective change of ownership in a facility for which a permit described in IC 13-15-1-3 **to control atomic radiation** is required, the prospective owner, at least one hundred eighty (180) days before the proposed change in ownership, may submit to the commissioner a disclosure statement that:

- (1) includes the information required by section 3(a) of this chapter; and
- (2) was executed under section 3(b) of this chapter.

(c) The commissioner:

- (1) shall review the disclosure statement; and
- (2) may investigate and verify the information set forth in the disclosure statement.

(d) If the commissioner determines that:

- (1) the information disclosed by the disclosure statement; and
- (2) any investigation by the commissioner;

would require the commissioner to deny the prospective owner's permit application if the prospective owner were applying for a permit under section 2 of this chapter, the commissioner shall disapprove the transfer of ownership of the facility to the prospective owner.

SECTION 7. IC 13-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A person may not do any of the following:

- (1) Discharge, emit, cause, allow, or threaten to discharge, emit, cause, or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources, into:

- (A) the environment; or

- (B) any publicly owned treatment works;

in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

- (2) Increase the quantity or strength of a discharge of contaminants into the waters or construct or install a sewer or sewage treatment facility or a new outlet for contaminants into the

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waters of Indiana without prior approval of the department.

(3) Deposit any contaminants upon the land in a place and manner that creates or would create a pollution hazard that violates or would violate a rule adopted by one (1) of the boards.

(4) Deposit or cause or allow the deposit of any contaminants or solid waste upon the land, except through the use of sanitary landfills, incineration, composting, garbage grinding, or another method acceptable to the solid waste management board.

(5) Dump or cause or allow the open dumping of garbage or of any other solid waste in violation of rules adopted by the solid waste management board.

(6) Dispose of solid waste in, upon, or within the limits of or adjacent to a public highway, state park, state nature preserve, or recreation area or in or immediately adjacent to a lake or stream, except:

(A) in proper containers provided for sanitary storage of the solid waste; or

(B) as a part of a sanitary landfill operation or other land disposal method approved by the department.

(7) Construct, install, operate, conduct, or modify, without prior approval of the department, any equipment or facility of any type that may:

(A) cause or contribute to pollution; or

(B) be designed to prevent pollution.

However, the commissioner or the appropriate board may approve experimental uses of any equipment, facility, or pollution control device that is considered necessary for the further development of the state of the art of pollution control.

(8) Conduct any salvage operation or open dump by open burning or burn, cause, or allow the burning of any solid waste in a manner that violates either:

(A) the air pollution control laws; or

(B) the rules adopted by the air pollution control board.

(9) Commence construction of a proposed hazardous waste facility without having first:

(A) filed an application for; and

(B) received;

a permit from the department.

(10) Commence or engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

(11) Deliver any hazardous waste to a hazardous waste facility

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that:

(A) is not approved; or

(B) does not hold a permit from the department.

(12) Cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

(13) Violate any:

(A) condition;

(B) limitation; or

(C) stipulation;

placed upon a certificate of environmental compatibility by the hazardous waste facility site approval authority or any other provision of IC 13-22-10.

(14) Apply or allow the application of used oil to any ground surface, except for purposes of treatment in accordance with a permit issued by the department under any of the following:

(A) IC 13-15, except IC 13-15-9.

(B) IC 13-17-11.

(C) IC 13-18-18.

~~(D) IC 13-20-1.~~

(15) Commence construction of a solid waste incinerator without first obtaining a permit from the department under IC 13-20-8.

(16) Commence operation of a solid waste incinerator without first obtaining the approval of the department under IC 13-20-8.

SECTION 8. [EFFECTIVE JULY 1, 2005] Notwithstanding:

(1) the amendment of:

(A) IC 13-15-3-2;

(B) IC 13-19-4-2;

(C) IC 13-19-4-5

(D) IC 13-19-4-7;

(E) IC 13-19-4-8; and

(F) IC 13-30-2-1; and

(2) the repeal of IC 13-11-2-210 and IC 13-20-1;

by this act, those statutes as in effect on June 30, 2005, apply to environmental permit applications filed before July 1, 2005.

SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 13-11-2-210; IC 13-20-1.

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